

MONTANA LEGISLATIVE HISTORY

Chapter 492 19 79

Bill H 579 S _____

Original bill & history / C

H. Committee on State Administration

Hearing Date(s) Feb 20 ✓ C

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_____ C

Date Out Feb 20 ✓ C

S. Committee on Labor and Employment Relations

Hearing Date(s) Mar 13 ✓ C

Mar 15 ✓ C

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_____ C

Mar 15 ✓ C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

CHAPTER NO. 492

HOUSE BILL NO. 579

INTRODUCED BY FAGG, DOZIER, MANNING

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on State Administration.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, do pass as amended.
February 22, 1979	Correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Labor and Employment Relations.
March 16, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 19, 1979	Motion pass consideration.
March 20, 1979	Second reading, concurred in as amended.
March 23, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 24, 1979	Returned from second house. Concurred in as amended.
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March 26, 1979

On motion, consideration
passed until the 7th
Legislative Day.

March 29, 1979

Second reading, amendments
adopted.

March 30, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 579

2 INTRODUCED BY FACET Deje Manning

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN
5 EMPLOYEE SEPARATED FROM EMPLOYMENT SHALL RECEIVE HIS FINAL
6 PAYCHECK ON THE NEXT REGULAR PAYDAY FOR THE PAY PERIOD
7 DURING WHICH HE WAS SEPARATED FROM EMPLOYMENT OR 15 DAYS
8 FROM THE DATE OF SEPARATION, WHICHEVER OCCURS FIRST;
9 AMENDING SECTION 39-3-205, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 39-3-205, MCA, is amended to read:

13 "39-3-205. Payment of wages when employee separated
14 from employment prior to payday. Whenever any employee is
15 separated from the employ of any employer, all the unpaid
16 wages of such employee shall become due and payable within 3
17 days on the next regular payday for the pay period during
18 which the employee was separated from employment or 15 days
19 from the date of separation from employment, whichever
20 occurs first, either through the regular pay channels or by
21 mail if requested by the employee. However--where--an
22 employer's payroll checks originate at an office outside the
23 state, the time provided herein for payment of wages shall
24 be extended for 3 additional days"

-End-

HB 579
INTRODUCED BILL

February 20, 1979

The hearing was called to order at 8:10 a.m. by Chairman Brand, Rep.'s McBride and Hayne were excused.

HB 614-Sponsored by Rep. Noeltvad -- This bill is mainly a matter of equity. In the Teachers' Retirement System, there are two contributions made -- by the employer and the employee, from his wages. This is really legally his money and his account up until the point he actually starts to take his retirement benefits. The interest earning of the employer goes into the General Fund of the retirement system, but the interest earnings on the employees' contributions are credited to the individual employee's account. The present statute reads interest at 4% per annum compounded annually, or such rate as may be set by the retirement board -- at the present time, it is set at 5 1/2%; while in fact, the employee money is earning 8%. There is quite a discrepancy between the actual earning of the employee's money and what he is credited each year under present policy. The purpose of the bill is to change the law to what interest is to be paid the employee account. It would be the actual interest earned in the previous fiscal year. If HB 614 passes, the employee would receive the interest that his account is earning after the retirement system is allowed to deduct reasonable administrative expenses. This is fair to allow those teachers, with or without vested rights, to take their contributions with the true interest earned.

DR. IRVING DAYTON-Deputy Commissioner of Higher Education -- He spoke in support, and said if the employee's contributions are earning at a certain interest rate, the full amount should be credited to his account.

NO OPPONENTS, NO QUESTIONS

SB 579-Sponsored by Rep. Fagg -- At the current time, the state law requires that an employee be paid within 5 days after termination of his employment or 6 days if he is employed by an out-of-state authority. This bill says he will be paid in the next regular pay period -- but in no case more than 15 days from termination of his job. The reason -- we are getting into more and more problems particularly in our cities that are on computer systems and it is more difficult to break in and close out for an individual who has just left.

DAVE GESS-City of Billings -- He submitted written testimony, see Attachment #1.

NO OPPONENTS

FAGG-The only persons who would be concerned are unions and the League of Cities and Towns, and I have talked to the union people.

HB 680-Sponsored by Rep. Kvaalen -- This bill repeals sections of law related to the Environmental Quality Council -- because I feel it has outlived its usefulness. There is a price of \$365,000 for the next biennium.

OPPONENTS

NORMAN A. NELSON-Northeast Montana Land & Mineral Owners -- See Attachments #2,3;

February 20, 1979 a.m.

(UNDERPAL continued)-\$5,000 each bothers me. AZZARA-Do you think this is also true in ballot issues?...How did you feel about AB 452? UNDERPAL-I have no way of assessing that. BRAND-My union donated \$3,000 and our office is in Cleveland but all the money is from Montana individuals; so how would you deal with that - we have to be federally regulated. UNDERPAL-If Congress sees fit, they will have to make such regulations. The federal regulations far exceed the state regulations. BRAND-Your list shows alot of things as out of state money that in essence probably are state money. A candidate doesn't have to accept the money if he feels it to be detrimental to his campaign.

EXECUTIVE SESSION

HR 47-DUNNELSON moved DO NOT PASS - I don't see how it can be accomplished and I have faith in the voter and we are getting too involved. AZZARA-I agree, I don't understand how it can be done.

The DO NOT PASS motion carried 17 - 1 (Bardanouve), with Azzara abstaining.

HB 572-SMITH moved DO NOT PASS.

KANDUCH made a substitute motion of DO PASS, which carried on a roll call vote 10 -

HB 614-BERNETT moved DO PASS.

BARDANOUVE-This is being used to pay back the unfunded liability and with this bill you wouldn't.

KANDUCH made a substitute motion of DO NOT PASS which carried on a roll call 13 -

HB 627-O'CONNELL moved DO NOT PASS, which roll called right on cut 13 - 6.

HB 680-AZZARA moved DO NOT PASS - This Council saves the Legislator alot of time and footwork. FORNER-Oscar feels it denies him the opportunity to communicate with his constituency. AZZARA-I think, considering the importance of many environmental issues, this Council is necessary.

The DO NOT PASS motion carried 12 - 7.

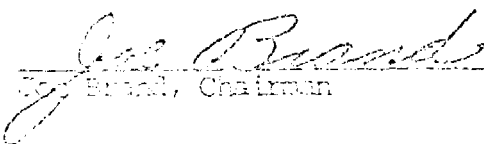
HB 703-KANDUCH moved DO NOT PASS, which carried 14 - 5.

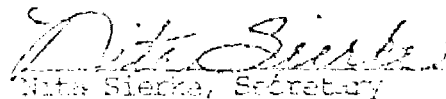
HB 762-O'CONNELL moved DO PASS, which carried 18 - 0 with Azzara abstaining.

HB 804-SMITH moved DO NOT PASS, which carried 18 - 1.

HB 854-O'CONNELL moved DO NOT PASS, which roll called out 11 - 2. (5 people had leave).

Adjourned: 11:55 a.m.


Joe Brand, Chairman


Rita Sierke, Secretary

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 13, 1979

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Lowe at 1:00 p.m. in Room 404 of the State Capitol on March 13, 1979.

ROLL CALL: All members were present.

Chairman Lowe opened the hearing on House Bill #579 and asked Representative Fagg of District 63 to address the Committee as sponsor of the bill. Representative Fagg explained that this bill provided that a public employee separated from employment would not receive his final paycheck until the next regular payday or 15 days from the date of separation, whichever occurs first. Mr. Fagg stated that since the payrolls of public employers, for the most part, were on computers, it made it difficult to interrupt the computer process to start and stop.

Another proponent to this bill was Mr. Sam Boggess, Director of Finance for the City of Billings. Mr. Boggess' testimony is attached as Exhibit "A".

The following opponents addressed the Committee against House Bill #579: Mr. Don Judge, representing the AFSCME, AFL-CIO stated that in isolated areas, high turnovers could cause much longer delays in paying employees who move from those areas without the benefit of a forwarding address. Mr. Judge stated that these employees were usually in a wage bracket as to need the money immediately, not 15 days after the fact. He explained that seasonal employees, such as CETA employees, were in the low income brackets and these people needed their termination pay sooner than 15 days from the date of termination. Mr. M. Mulcahy, representing the AFSCME and the Montana Police Protection Association, stated that in Butte at the present time, there were ten policemen being laid off, and that the City knew the names of the individuals who were to be laid off, and felt it was unfair for those individuals to have to wait 15 days for their termination pay. Another opponent was Mr. Jerry Driscoll, representing the Laborer's Union Local #98, who did not address the Committee.

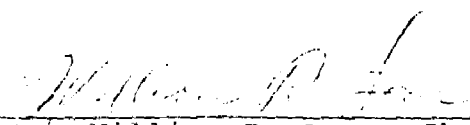
After a short question and answer period, the hearing on House Bill #579 was closed.

Chairman Lowe then opened the hearing on House Bill #856 and asked Representative Vincent of District 78 to address the Committee.

Chairman Lowe then asked the Committee if they wished to act on Senate Joint Resolution #24 which had been heard at a previous meeting. After some discussion on this Resolution, Senator Dover moved that HJR #24 do not pass which motion carried unanimously.

The Committee then discussed House Bill #579 and Senator Smith moved that this bill do not pass, but withdrew his motion when the Committee requested Mr. Jim Oppedahl, Legislative Council Attorney, to submit an amendment to the Committee. This amendment is to indicate that when an individual is fired, the paycheck is to be issued at the time the individual is terminated.

The meeting was then adjourned at 2:27 p.m.



Senator William R. Lowe, Chairman



CITY OF BILLINGS

220 NORTH 27TH STREET
P. O. BOX 1178
BILLINGS, MONTANA 59103
PHONE (406) 248-7511

The City of Billings supports HB 579 as a bill that would result in more efficiency and therefore a cost savings to the taxpayers and yet would not place an undue hardship on employees who are terminating.

Under present law, when an employee terminates an employer has three days in which to get the final wages due settlement to that employee. Even though the City of Billings has a completely computerized payroll system this system is completely useless when an employee terminates since this system operates on a pay period basis and not fractions thereof.

As a result whenever an employee terminates the final wages due settlement must be done by hand. In the City of Billings during an average two-week pay period there are 5 to 6 regular employees who terminate plus an additional 10 to 12 CETA employees. As a result it takes an average of two mandays each pay period to compute by hand the final wages due settlement. This problem is compounded even more at the end of the seasonal employment periods, such as the end of the summer recreational programs when all the temporary help that has been added is terminated.

HB 579 would eliminate this problem by allowing the employer until the next regular pay day for the pay period in which an employee was terminated, but not to exceed 15 days, to get the final wages to the terminated employee. This would allow the use of the computerized pay system in determining these final wages thus bringing more efficiency to the system. And yet with the 15 day limitation placed on this wages due settlement by HB 579 we do not feel this would place an undue hardship on employees who terminate. Plus there is nothing in HB 579 that would prohibit the employer from getting the final wages due to a terminated employee prior to the time limit set by this bill if special circumstances call for an earlier wages due settlement.

Therefore the City of Billings urges this Committee to approve HB 579.

NAME: Don Judge DATE: 3/13/79

ADDRESS: 200 N. Cooke St. Helena

PHONE: 442-1192

REPRESENTING WHOM? AFSCME, AFL-CIO

APPEARING ON WHICH PROPOSAL: HB 579

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: High turnover in isolated areas could cause

a much longer delay in paying employees who

move from those areas who forwarding addresses.

Employees who terminate may need money immediately,

not 15 days after termination. CETA employees

are low-paid employees who, again need this money

immediately after layoff. Computer problems should not be

allowed to withhold payment of wages.

we would ask this committee to give HB 579 a

"do not pass" recommendation

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jerry Driscoll

DATE: 3-13-79

ADDRESS: 345 Calhoun Lane Billings 59101

PHONE: 259-4471

REPRESENTING WHOM? *Labors Union Local #98*

APPEARING ON WHICH PROPOSAL: *HB 579*

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mr. Barrett of the Employment Security Division referred the Committee to a summary entitled, "Financing of Unemployment Insurance in MONTANA" which is attached as Exhibit "A".

Mr. Chad Smith, representing the Unemployment Compensation Advisors, addressed the Committee in opposition to House Bill #190. Mr. Smith stated that the experience rating is the preferred method of administering unemployment compensation and worked well, however, he stated that the bill in its present form would increase taxes up to 60% the first year. Mr. Smith proposed some amendments to House Bill #190 which are attached as Exhibit "B". Mr. Smith indicated that these amendments would keep the base at \$6,000 and felt that this would be sufficient to maintain the fund and increase the tax rate enough to keep the fund operating and not be punitive. Mr. Smith indicated that 37 states still maintain \$6,000 base and that the Federal standard sets the base at \$6,000. Mr. Smith felt that this base would provide the fund with enough money to meet expenses and felt that that was all that was needed. Mr. Smith stated that if the Secretary of Labor were notified by July 1st, the payment of the monies due the Federal Government could be postponed for another year.

Mr. Robert Holding, representing the Montana Wood Products Association, urged the Committee to adopt the amendments proposed by Mr. Smith. Mr. Holding stated that the employers could better use the money to provide more jobs for employees.

Ms. J. Fallan, representing the Montana Chamber of Commerce, also spoke in favor of the amendments to House Bill #190. Mr. Wes Banta, representing Kaiser Cement, stated that they were opposed to the bill as strike benefits could increase the employer's experience rating.

Representative Harper, in closing, stated that the experience system was a fairer and more equitable method of taxation. Mr. Harper indicated that out of the 37 states referred to by Mr. Smith, only 11 of these states were solvent. Mr. Harper indicated that he did not understand the opposition posed by the Chamber of Commerce, as it was their study which established the wage base and they had recommended it.

Chairman Lowe then closed the hearing on House Bill #190.

Chairman Lowe asked the Committee to take executive action on House Bill #579 and referred to the amendments furnished by Mr. Oppedahl for their consideration. These amendments are attached as Exhibit "C". Senator Smith moved the amendments which carried unanimity. Senator Severson moved the bill as amended which also carried unanimously.

STANDING COMMITTEE REPORT

March 16 1979

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 570

Fagg (Lowe)

Respectfully report as follows: That HOUSE Bill No. 570

third reading bill, be amended as follows:

1. Title, line 9.

Following: line 8

Insert: "PROVIDING FOR IMMEDIATE PAYMENT UPON SEPARATION FROM
EMPLOYMENT IN CERTAIN CASES;"

2. Page 1, line 14.

Following: "payday."

Strike: "Whenever"

Insert: "Except as provided in subsection (2), whenever"

3. Page 2.

Following: line 4

Insert: "(2) When an employee is separated from employment by
the employer, all the unpaid wages of the employee shall become
due and payable immediately upon such separation."

And, as so amended
BE CONCURRED IN

DO PASS
XXXXXX

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date March 15, 1979 Bill No. 579 Time 3:00 p.m.

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN	✓	
GARY AKLESTAD	✓	
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN	✓	<i>Attn</i>
JOHN (SANDY) MEHRENS		✓
BOB PALMER		✓
ELMER D. SEVERSON	✓	
RICHARD G. SMITH		✓
BILL R. LOWE, CHAIRMAN	✓	

William F. Hafferman
Secretary

Low
Chairman

Motion: *As amended to Pass*

(include enough information on motion--put with yellow copy of committee report.)

HOUSE BILL NO. 579

INTRODUCED BY FAGG, DOZIER, MANNING

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN A
PUBLIC EMPLOYEE SEPARATED FROM EMPLOYMENT SHALL RECEIVE HIS
FINAL PAYCHECK ON THE NEXT REGULAR PAYDAY FOR THE PAY PERIOD
DURING WHICH HE WAS SEPARATED FROM EMPLOYMENT OR 15 DAYS
FROM THE DATE OF SEPARATION, WHICHEVER OCCURS FIRST;
PROVIDING FOR IMMEDIATE PAYMENT UPON SEPARATION FROM
EMPLOYMENT IN CERTAIN CASES; AMENDING SECTION 39-3-205,
MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-3-205, MCA, is amended to read:

"39-3-205. Payment of wages when employee separated
from employment prior to payday. Whenever (1) EXCEPT AS
PROVIDED IN SUBSECTION (2), WHENEVER any employee is
separated from the employ of any employer, all the unpaid
wages of such employee shall become due and payable within 3
days WITHIN 3 DAYS, EXCEPT FOR EMPLOYEES OF THE STATE OF
MONTANA AND ITS POLITICAL SUBDIVISIONS WHO WOULD BE PAID on
the next regular payday for the pay period during which the
employee was separated from employment or 15 days from the
date of separation from employment, whichever occurs first,
either through the regular pay channels or by mail if

requested by the employee. However, ~~where an employer's~~
~~payroll checks originate at an office outside the state, the~~
~~time provided herein for payment of wages shall be extended~~
~~for 3 additional days. HOWEVER, WHERE AN EMPLOYER'S PAYROLL~~
~~CHECKS ORIGINATE AT AN OFFICE OUTSIDE THE STATE, THE TIME~~
~~PROVIDED HEREIN FOR PAYMENT OF WAGES SHALL BE EXTENDED FOR 3~~
~~ADDITIONAL DAYS.~~

(2) WHEN AN EMPLOYEE IS SEPARATED FOR CAUSE FROM
EMPLOYMENT BY THE EMPLOYER, ALL THE UNPAID WAGES OF THE
EMPLOYEE SHALL BECOME DUE AND PAYABLE IMMEDIATELY UPON SUCH
SEPARATION."

-End-